

STATE OF CALIFORNIA  
CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD  
CENTRAL COAST REGION  
895 Aerovista Place, Suite 101  
San Luis Obispo, California 93401-7906

CEASE AND DESIST ORDER NO. R3-2007-0051

For

ARLEN HAFFNER  
CASA DE MONTGOMERY  
WASTEWATER TREATMENT FACILITY  
SANTA CRUZ COUNTY

The California Regional Water Quality Control Board, Central Coast Region (Board), finds that:

1. **Discharger.** Arlen Haffner (Discharger) collects, treats and disposes of domestic wastewater to land from a boarding house.
2. **Purpose and basis of Order.** This Order prohibits discharge of wastewater from the existing treatment and disposal facilities. The Board rescinded Order No. 01-037 because the Discharger, although the Executive Officer notified him of noncompliance numerous times, has not complied with the Order. In particular, the Discharger did not submit annual fees or monitoring reports for several years, although he paid the annual fee for FY2006-2007.
3. **Facility owner and location.** The Discharger owns and operates the domestic wastewater collection, treatment, and disposal system at 4573 Branciforte Road, Santa Cruz County.
4. **Wastewater characteristics.** The domestic wastewater discharged from the boarding house comprises sanitary wastewater and gray water, and includes elevated concentrations of nitrogen and phosphorus, solids, oil and grease, oxygen-demanding compounds, pathogens, and other pollutants.
5. **Design and capacity.** The system comprises sewers, two 3,000-gallon septic tanks, a pump station, and evaporation/percolation ponds. The estimated treatment system capacity was 3,500 gallons per day until Order No. 01-037 Specification No. 3 required the Discharger to remove half the nitrogen from the wastewater. However, since the Board adopted Order 01-037 on May 18, 2001, the Discharger has not demonstrated that the existing treatment system removes half the nitrogen. Therefore, the plant has not demonstrated that it has the capacity to remove nitrogen in compliance with the requirements of Order 01-037.
7. **Basin Plan.** The Board adopted the *Water Quality Control Plan, Central Coastal Basin* (Basin Plan) on September 8, 1994. The Basin Plan incorporates statewide plans and policies by reference and contains a strategy for protecting beneficial uses of Branciforte Creek and other surface waters.
8. **Surface waters.** An unnamed intermittent stream flows southeasterly approximately 100 feet southwest of the percolation ponds before entering Branciforte Creek. Branciforte Creek flows for approximately six miles before entering Carbonera Creek and ultimately the San Lorenzo River.
9. **Surface Waters Beneficial Uses.** Existing and anticipated beneficial uses of Branciforte Creek include:
  - a. Municipal and domestic supply;
  - b. Water contact recreation;
  - c. Ground water recharge;

- d. Industrial service supply;
  - e. Water-contact recreation;
  - f. Non-contact water recreation;
  - g. Wildlife habitat;
  - h. Cold freshwater habitat;
  - i. Fish migration;
  - j. Fish spawning;
  - k. Preservation of biological habitats of special significance;
  - l. Protection of rare, endangered, or threatened species;
  - m. Freshwater replenishment; and
  - n. Commercial and sport fishing.
10. **Groundwater beneficial uses.** Existing and anticipated beneficial uses of groundwater in the vicinity of the discharge include:
- a. Domestic supply,
  - b. Agricultural supply,
  - c. Industrial process supply, and
  - d. Industrial service supply.
11. **Wastewater management plan.** The San Lorenzo Wastewater Management Plan (WWMP), adopted by Santa Cruz County Board of Supervisors, was approved by the Regional Board on April 5, 1995 as Resolution No. 95-04. The WWMP includes findings and recommendations resulting from investigation of elevated nitrate levels in surface water and groundwater in the San Lorenzo River watershed. The WWMP recommends the Regional Board require nitrogen control measures in the issuance of new or revised waste discharge requirements. The WWMP's goal is for at least 50 percent reduction in nitrogen from onsite disposal systems.
12. Order No. 01-037 required 50 percent reduction of nitrogen in effluent, consistent with Resolution No. 95-04. Compliance was due by January 1, 2004. The Discharger has not complied with this requirement.
13. **Authority for Order.** WDRs Order No. R3-2007-0050 prohibits discharge from the facility based on an extensive history

of noncompliance. Water Code Section 13301 provides

"When a regional board finds that a discharge of waste is taking place, or threatening to take place, in violation of requirements ... prescribed by the regional board ..., the board may issue an order to cease and desist and direct that those persons not complying with the requirements or discharge prohibitions (a) comply forthwith, (b) comply in accordance with a time schedule set by the board, or (c) in the event of a threatened violation, take appropriate remedial or preventive action."

Based on the Discharger's extensive history of non-compliance, the Board finds that a discharge is threatening to take place in violation of WDRs Order No. R3-2007-0050.

14. **California Environmental Quality Act (CEQA).** This Order is an enforcement action to protect the environment, and as such, is exempt from the provisions of the California Environmental Quality Act, in accordance with Title 14, California Code of Regulations, Chapter 3, Sections 15307, 15308 and 15321.
15. **Existing Order.** The discharge is regulated by **Waste Discharge Requirements Order No. R3-2007-0050.**
16. Discharge of waste is a privilege, not a right, and authorization to discharge is conditional upon the discharge complying with provisions of Division 7 of the California Water Code and any more stringent effluent limitations necessary to implement water quality control plans, to protect beneficial uses, and to prevent nuisance. Compliance with this Order should assure this and mitigate any potential adverse changes in water quality due to the discharge.
17. On **June 4, 2007**, the Regional Board notified the Discharger and interested agencies and persons of its intent to adopt

this Order, and has provided them with a copy of the proposed Order and an opportunity to submit written evidence and comments.

18. **Public Meeting.** In a public meeting on July 6, 2007, the Board heard and considered all comments pertaining to the discharge and found this Order consistent with the above findings.
19. **Right to Petition.** Any person affected by this action of the Board may petition the State Board to review the action in accordance with Section 13320 of the California Water Code and Title 23, California Code of Regulations, Section 2050. The State Board must receive the petition within 30 days of the date of this Order. Copies of the law and regulations applicable to filing petitions will be provided upon request.

**IT IS HEREBY ORDERED** pursuant to authority in sections 13301 of the California Water Code:

1. The Discharger, his agents, successors, and assigns, shall cease and desist from discharging waste in violation of WDR Order R3-2007-0050.
2. If, in the opinion of the Executive Officer, the Discharger fails to comply with any provision of this Order, then the Executive Officer may apply to the Attorney General for judicial enforcement without a hearing.

As provided by CWC Section 13350(a), any person may be civilly liable if that person, in violation of a waiver condition or waste discharge requirements, discharges waste, or causes waste to be deposited where it is discharged, into the waters of the State.